

## CHAPTER 2. PRELIMINARY PROCEDURES AND CONSULTATION

16. PLANNING AND DEVELOPMENT. The environmental impacts of proposed actions shall be based on appropriate environmental consideration at the systems planning level and shall be assessed and considered concurrently with initial planning, development, or site considerations.
17. INITIAL REVIEW. An environmental review will indicate whether the proposed action could significantly affect the human environment with respect to noise, land, air and water quality; whether it is located in wetlands, coastal zones, historic or archeological sites, areas inhabited by endangered species, or areas protected under DOT Section 4(f); whether the action would be highly controversial on environmental grounds. At this stage, documentation is required to alert program officers to foreseeable environmental impacts and controversies. (A proposed Federal action is considered highly controversial when the action is opposed on environmental grounds by a Federal, State, or local government agency or by a substantial number of the persons affected by such action.)
18. IDENTIFICATION OF ISSUES AND PROBLEMS. Based on the initial review described in paragraph 17, the program officer(s) shall identify issues and problems having environmental significance to Federal, State, or local officials in the performance of their duties, or to the public. Further, the program officer(s) shall determine whether such issues and problems, as they pertain to the proposed action, have been addressed already in a broad system, program, or regional assessment.
19. EARLY COORDINATION. CEQ sec. 1501.4(b) states, "The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing (environmental) assessment..." and in CEQ sec. 1506.2(b) "Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law."
20. BUDGETARY REQUIREMENTS. The Office of Budget is responsible for assuring appropriate environmental consideration and documentation at the budget stage. Criteria for environmental consideration in the Airways Facilities budget process are in Program Engineering and Maintenance Service, Appendix 1, paragraph 6. Funding requirements resulting from the implementation of this order shall be justified and requested in accordance with existing budgetary and fiscal policies.
21. RESEARCH. Criteria for environmental consideration of research activities are in Appendix 2.

22. CONSULTATION. The affected local units of Government, and pertinent Federal and State agencies should be consulted early in the process of preparing a DEIS, FONSI, or environmental assessment. Comments on the environmental impacts of the proposed action shall be considered, as appropriate, in determining whether the proposed action requires an EIS or FONSI and in preparing the DEIS or FONSI.

23. ROLE OF LEAD AND COOPERATING AGENCIES. The various roles of the lead agency are described in CEQ 1501.5 through 1501.8. CEQ 1501.5 generally describes the role of the lead agency when more than one agency is involved in an action. CEQ 1501.6 describes the relationship with cooperating agencies. CEQ 1501.7 and 1501.8 define the role of the lead agency in the scoping process and in setting time limits.

\* a. Federal agencies which shall be invited by the responsible official to become cooperating agencies are those with jurisdiction by law in areas which may be affected by FAA actions or whose actions, plans, or developments may affect the proposed FAA action or limit proposed alternatives.

b. Federal agencies with special expertise may also be asked to be cooperating agencies.

c. The definition of a cooperating agency in CEQ Sec. 1508.5 also includes any "State or local agency of similar qualifications (i.e., with jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal), or when the effects are on a reservation, an Indian Tribe may, by agreement with the lead agency, become a cooperating agency."

24. PUBLIC REQUESTS FOR FAA ACTION. When an FAA action is requested from the public there may be particular situations such as, issuance of various certificates, approval of airline operating specifications or amendments, establishment of new or revised instrument approach/departure procedures affecting noise sensitive areas, etc., which will require FAA to do an environmental assessment. Whenever this situation occurs, FAA action may be delayed unless assistance in the development of pertinent environmental data is furnished by the applicant or other interested persons.

25. USE OF CONTRACTORS. Contractor consulting services may be used to prepare environmental assessments and impact statements. They may also be used to prepare background or supplemental material and otherwise assist in preparing a draft or final environmental document for which FAA takes responsibility.

26. LAND ACQUISITION AND CONSTRUCTION OF FACILITIES. Public sponsors, other aviation agencies or private parties have the authority to acquire land or to construct facilities for operation by the FAA without prior approval by the FAA. Such action, if inconsistent with the policies of this order, could prejudice a decision by the FAA on proposed changes in an airport which would use the land thus acquired, or on request for reimbursement for the property, or construction or operation of the facility.

a. When FAA is notified or becomes aware of a possibility that such a situation may be occurring, FAA will advise the public sponsor, other aviation agency or private party that:

(1) Such actions must be consistent with pertinent environmental policy as expressed in this order.

(2) The manner in which the particular property was acquired or the facility constructed will be carefully considered by the FAA prior to approval of any future FAA action involving it.

b. FAA will give particular attention to its responsibilities under DOT Section 4(f) to insure that a special effort is made to preserve the natural beauty of countryside, public parks, and recreation lands, wildlife and waterfowl refuges, and historic sites. FAA will not approve actions requiring the use of DOT Section 4(f) properties unless there is no feasible and prudent alternative and the program includes all possible planning to minimize harm.

c. FAA also will give particular attention to actions involving properties included in or eligible for inclusion in the National Register of Historic Places and the provisions of Title VI of the Civil Rights Act of 1964 and the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970.

d. An action by a sponsor, other aviation agency or private party which has acquired land or constructed a facility for operation by FAA, but without prior approval by FAA, will be reviewed to determine whether the action was consistent with the policies of this order and has not limited full and objective consideration of alternatives.

27. INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS. In accordance with Executive Order 12372, "Intergovernmental Review of Federal Programs," Federal agencies shall provide opportunities for review and comment by elected officials of State and local governments that will be affected by planned Federal assistance and direct Federal development actions. Also, FAA should provide copies of FONSI's and draft EIS's to elected state and local officials. FAA shall comply with DOT procedures implementing this Executive Order contained in 49 CFR Part 17. Executive Order 12372 and DOT regulations are intended to replace the intergovernmental consultation system developed under the Office of Management and Budget (OMB) Circular A-95. Under Executive Order 12372 State and local elected officials, not the Federal government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

28. PUBLIC HEARING.

a. The following elements are to be considered in deciding whether a public hearing is appropriate in cases where it is not statutorily mandated.

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(1) The magnitude of the proposal in terms of environmental impact or controversy, economic costs, the size and location of the geographic area involved, and the uniqueness or amount of the resources to be committed.

(2) The degree of interest in the proposal, as evidenced by requests from the public of Federal, State, and local authorities that a hearing be held.

(3) The complexity of the issue and the likelihood that information presented at the hearing will be of assistance to the agency in fulfilling its responsibilities.

(4) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, or written comments on the proposed action.

b. The following shall be included in the notice for a public hearing:

(1) A description of the proposed action.

(2) The scheduling of the public hearing (time, date, and place).

(3) The availability and location of a DEIS, FONSI, or environmental assessment.

c. Notice of the hearing shall be in an areawide or local newspaper of general circulation. In CEQ sec. 1506.6 states that, "In all cases the agency shall mail notice to those who have requested it on an individual action. In the case of an action with effects of national concern notice shall include publication in the Federal Register and notice by mail to national organizations reasonably expected to be interested in the matter . . . ."

d. A draft EIS, FONSI, or environmental assessment shall be available to the public 30 days prior to the public hearing.

e. For FAA hearings, the responsible official may assign program officers the responsibility for convening a hearing and serving as hearing officer.

f. Records of public hearings will be maintained in the docket of the General Counsel's office.

29. CITIZEN INVOLVEMENT. Citizen involvement, where appropriate, shall be initiated at the earliest practical time and continued throughout the development of the proposed project in order to obtain meaningful input. Such citizen involvement may be appropriate in defining the scope of work of an environmental assessment developed by an applicant for aid or by a consultant, or of a DEIS being developed by FAA. Comments from individuals and groups shall be considered in preparing an EIS or FONSI. A summary of citizen involvement and the environmental issues raised shall be documented where practical in the EIS or FONSI. Reference FAA Report FAA-EE-79-06, "Community Involvement Manual" for further information. A copy of FAA-EE-79-06 can be obtained from the Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

30. RESERVED.